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POST GENEVA - SINGLE TEXT
ANALYSIS

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TAGS: PLOS

SUBJECT: LOS: AMENDMENTS TO COMMITTEE II SINGLE
NEGOTIATING TEXT OF INTEREST TO BROAD MARGIN CONTINENTAL
SHELF STATES.

1. THERE FOLLOWS TEXT OF US PROPOSED AMENDMENTS AND
COMMENTS ON ARTICLES 62 AND 69 OF THE COMMITTEE II SINGLE
NEGOTIATING TEXT.

2. EMBASSIES ARE REQUESTED TO DELIVER TEXT OF THESE
PROPOSED AMENDMENTS AND COMMENTS TO HOST GOVERNMENT LOS
OFFICIALS AS SOON AS POSSIBLE. IN DELIVERING THEM YOU
SHOULD NOTE THAT THESE PROPOSALS ARE PRELIMINARY, REMAIN
UNDER USG REVIEW, AND REPRESENT INTERNAL USG WORK PRODUCT.
YOU SHOULD ALSO RECALL THE HELPFUL PAST DISCUSSIONS THE USG
HAS HAD WITH THE BROAD CONTINENTAL MARGIN STATES AND NOTE
THAT IN LIGHT OF THE UPCOMING EVENSEN GROUP MEETING
(DECEMBER 1-12) THE USG IS INTERESTED IN SOLICITING HOST
GOVERNMENT VIEWS ON A MATTER OF COMMON INTEREST, AND IS
WILLING TO HAVE DISCUSSIONS WITH INTERESTED STATES IN NEW
YORK PRIOR TO THE EVENSEN GROUP MEETING.

3. BEGIN TEXT: PROPOSED AMENDMENTS AND COMMENTS TO
COMMITTEE II SINGLE NEGOTIATING TEXT.

NOTE: THE FOLLOWING AMENDMENTS ARE PRELIMINARY AND DO NOT
REPRESENT AN EXHAUSTIVE OR FINAL LIST OF ALL CHANGES THAT
MAY BE REQUIRED IN THE COMMITTEE II SINGLE NEGOTIATING
TEXT.

ARTICLE 62.

AMENDMENT: SUBSTITUTE THE FOLLOWING ARTICLE 62:

1. FOR THE PURPOSES OF THIS CONVENTION, THE CONTINENTAL
SHELF OF A COASTAL STATE COMPRIMES THE SEABED AND SUBSOIL

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OF THE SUBMARINE AREAS ADJACENT TO THE COAST, AND OUTSIDE THE AREA OF THE TERRITORIAL SEA, TO A DISTANCE OF 200 NAUTICAL MILES FROM THE BASELINES FROM WHICH THE BREADTH OF THE TERRITORIAL SEA IS MEASURED OR, WHERE THE CONTINENTAL MARGIN EXTENDS BEYOND THAT LIMIT, TO THE OUTER EDGE OF THE CONTINENTAL MARGIN AS DEFINED IN THIS ARTICLE.

2. THE CONTINENTAL MARGIN IS THE NATURAL PROLONGATION OF THE LAND MASS OF THE COASTAL STATE, AND DOES NOT INCLUDE THE DEEP OCEAN FLOOR. IN THE ABSENCE OF SATISFACTORY SCIENTIFIC EVIDENCE (WHICH MAY INCLUDE GEOLOGICAL AND GEOMORPHOLOGICAL EVIDENCE) THAT THE CONTINENTAL MARGIN EXTENDS TO A DIFFERENT LIMIT, THE OUTER EDGE OF THE CONTINENTAL MARGIN SHALL BE DEEMED TO BE BOUNDED BY A SERIES OF STRAIGHT LINES, NOT MORE THAN SIXTY NAUTICAL MILES IN LENGTH, CONNECTING FIXED POINTS LOCATED SIXTY NAUTICAL MILES SEAWARD OF THE FOOT OF THE CONTINENTAL SLOPE, ESTIMATED AS THE POINT OF MAXIMUM CHANGE IN THE GRADIENT OF THE BASE OF THE MARGIN.

3. THE COASTAL STATE SHALL DEPOSIT CHARTS AND RELEVANT INFORMATION, INCLUDING GEODETIC DATUM, PERMANENTLY DESCRIBING THE OUTER LIMIT OF THE CONTINENTAL SHELF AS DEFINED IN PARAGRAPH 1 WITH THE SECRETARY GENERAL OF THE UNITED NATIONS, WHO SHALL GIVE DUE PUBLICITY THERETO.

4. A CONTINENTAL MARGIN DELIMITATION COMMISSION SHALL BE ESTABLISHED IN ACCORDANCE WITH THE PROVISIONS OF ANNEX

. IN THE EVENT OF DISAGREEMENT REGARDING THE LOCATION OF THE OUTER EDGE OF THE CONTINENTAL MARGIN IN ACCORDANCE WITH PARAGRAPH 2, THE MATTER SHALL BE SUBMITTED TO THE CONTINENTAL MARGIN DELIMITATION COMMISSION, WHOSE DECISION SHALL BE BINDING.

COMMENTS:

SINCE IT IS IMPOSSIBLE TO DEFINE THE CONTINENTAL MARGIN IN COMPLETELY PRECISE AND UNAMBIGUOUS TERMS THE COASTAL STATE SHOULD BE GIVEN SOME FLEXIBILITY IN DELIMITATING ITS OWN CONTINENTAL MARGIN. THE INTERESTS OF THE INTERNATIONAL COMMUNITY ARE SAFEGUARDED BY THE NOTICE REQUIREMENTS OF PARAGRAPH 3 AND THE COMMISSION ESTABLISHED BY PARAGRAPH 4. A COMMISSION AS ENVISIONED BY PARAGRAPH 4 IS INDISPENSIBLE TO ANY SOLUTION OF CONTINENTAL MARGIN DELIMITATION.

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AUTHORITY WOULD INEVITABLY ATTEMPT TO RESOLVE THE ISSUE ITSELF; MOREOVER, WITHOUT SUCH A COMMISSION, IT WOULD BE POLITICALLY IMPOSSIBLE TO OBTAIN OR ENFORCE ANY PROHIBITION ON THE AUTHORITY IN THIS REGARD.

ARTICLE 69.

SUBSTITUTE THE FOLLOWING ARTICLE 69.

1. THE COASTAL STATE SHALL MAKE PAYMENTS OR, IN ITS DISCRETION, EQUIVALENT CONTRIBUTIONS IN KIND OF THE RESOURCE ITSELF IN RESPECT OF THE EXPLOITATION OF THE NON-LIVING RESOURCES OF THE CONTINENTAL SHELF BEYOND 200 NAUTICAL MILES FROM THE BASELINES FROM WHICH THE BREADTH OF THE TERRITORIAL SEA IS MEASURED.

2. THE RATE OF PAYMENT OR CONTRIBUTION SHALL BE THE PERCENT OF THE VALUE OR VOLUME OF THE EXTRACTED PRODUCT AT THE SITE SPECIFIED IN PARAGRAPH 4 OF THIS ARTICLE. PRODUCTION DOES NOT INCLUDE RESOURCES USED IN CONNECTION WITH EXPLOITATION.

3. THE PAYMENTS REFERRED TO IN PARAGRAPHS 1 AND 2, SHALL BE MADE TO AN INTERNATIONAL OR REGIONAL DEVELOPMENT ORGANIZATION RECOGNIZED BY THE UNITED NATIONS. THE PARTIES TO THIS CONVENTION SHALL AGREE ON NECESSARY PAYMENT AND OTHER RELEVANT PROCEDURES. THE RECIPIENT ORGANIZATIONS SHALL DISTRIBUTE THESE PAYMENTS TO STATE PARTIES TO THIS CONVENTION ON THE BASIS OF EQUITABLE SHARING CRITERIA, TAKING INTO ACCOUNT THE INTERESTS AND NEEDS OF DEVELOPING COUNTRIES.

4. THE PAYMENTS AND CONTRIBUTIONS REFERRED TO IN PARAGRAPH 2 SHALL BE MADE ANNUALLY WITH RESPECT TO ALL PRODUCTION AT A SITE AFTER THE FIRST FIVE YEARS OF PRODUCTION AT THAT SITE; THEY SHALL BE 1 PERCENT FOR THE SIXTH YEAR, SHALL INCREASE BY 1 PERCENT FOR EACH SUBSEQUENT YEAR UNTIL THE TENTH YEAR, AND SHALL REMAIN AT 5 PERCENT THEREAFTER.

COMMENTS: REVENUE-SHARING BEYOND 200 MILES IS A NECESSARY PART OF ANY BROADLY ACCEPTABLE ACCOMMODATION ON THE ISSUE OF THE JURISDICTION OVER CONTINENTAL MARGIN RESOURCES BEYOND 200 MILES. THE SLIDING SCALE OF PARAGRAPH 4 IS INTENDED TO ACCOMMODATE THE CONCERNS OF SUPPORTERS OF PROFIT SHARING, SINCE IT ALLOWS A BROADER MARGIN FOR RECOUPING INVESTMENT IN EARLY YEARS, BUT AIDS THE

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ACCOUNTING PROBLEMS OF PROFIT SHARING. END TEXT.
 4. FOR LONDON: IN EMBASSY APPROACH TO HOST GOVERNMENT LOS OFFICIALS YOU SHOULD NOTE THAT THESE AMENDMENTS ARE AN AMALGAMATION OF USG VIEWS AND AGREED ON TEXTS FROM GROUP OF 5 MEETING AND ARE PRESENTED TO THE UK FOR ITS CONSIDERATION.

5. FOR OSLO: (A) PLEASE PASS TO BERNARD H. OXMAN, US/LOS DELEGATION, ARRIVING OSLO OCTOBER 28. (B) IN EMBASSY APPROACH TO HOST GOVERNMENT LOS OFFICIALS YOU SHOULD NOTE THAT BERNARD H. OXMAN, DEPUTY REPRESENTATIVE ON US LOS DELEGATION, WILL BE IN OSLO ON OCTOBER 28 AND WOULD BE HAPPY TO DISCUSS THESE PROPOSED AMENDMENTS WITH HOST GOVERNMENT LOS OFFICIALS IF THEY SO DESIRE. INGERSOLL